IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8487 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DHANIBEN GANGARAM LODHA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8487 of 2002

MR ZUBIN F BHARDA for Petitioner No. 1

MR VM PANCHOLI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/03/2003

ORAL JUDGEMENT

By filing this petition, the petitioner-detenu has challenged his detention order dated 21-7-2002, by

which she is detained under the Prevention of Antisocial Activities Act, (for short "the PASA" Act). Along with the order of detention she is also served with the ground of detention. The petitioner is detained as a "bootlegger". In the said grounds, there is a reference of four criminal cases registered against the petitioner under the provisions of the Bombay Prohibition Act. The detaining authority has also considered the statement of certain witnesses in order to substantiate its say that the petitioner is a "bootlegger". After having been satisfied about the activities of the petitioner, the detaining authority has passed the aforesaid detention order by which the petitioner is detained as a "bootlegger" under PASA. The petitioner has challenged the aforesaid order on various grounds.

2) The learned advocate for the petitioner submitted that some of the documents supplied to the petitioner are absolutely illegible. This averment is also made in the petition in this behalf. Strong reliance is placed in the petition, in this behalf, on the document at page 49, which is the F.S.L.report. The learned AGP has also conceded that the said document as absolutely not readable. This is an important document and the authority should have given at least a legible copy of the same to the detenu. Even in the representation dated 30th July, 2002, the petitioner has already pointed out this aspect of not giving legible copies to her. The said representation is annexed in the petition as Annexure-B.

3) Considering the aforesaid aspect of the matter, the order of detention is required to be set aside on the ground of not supplying the readable copy to the petitioner and by that, she is deprived of her right of making effective representation to the authority, and therefore, this petition requires to be allowed.

4) On the aforesaid ground, this petition is allowed. The order of detention dated 21-7-2002 is quashed and set aside. The detenu, Dhaniben Gangaram Lodha, is ordered to be set at liberty forthwith, if she is not required in connection with any other case. Rule is made absolute.

(P.B.Majmudar, J.)
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